

TESTIMONY OF JOHN SCHEIBEL  
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YAHOO! INC.  
BEFORE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON ENERGY AND COMMERCE  
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Chairman Whitfield, Ranking Member Stupak, and Members of the Subcommittee, thank you for the opportunity to testify on the actions Yahoo! has taken to address the serious issues presented by prescription drug sales over the Internet. I am John Scheibel, Vice President of Public Policy for Yahoo!

Yahoo! is a leading provider of comprehensive online products and services to consumers and businesses worldwide. Yahoo! is the Number 1 Internet brand globally and the most trafficked Internet destination worldwide. Yahoo! offers a broad and deep array of communications, commerce and content services.

We share Congress' interest in protecting consumers from the potential dangers of illegal prescription drug sales. For that reason, Yahoo! has taken a leadership position in the industry. First in 2002, Overture, which later became a wholly-owned subsidiary of Yahoo!, instituted a policy prohibiting online pharmacies from advertising that prescription drugs could be purchased without a prescription. Then, in November of 2003, we took ground breaking action to better ensure that our sponsored search listings of online pharmacies meet high standards of integrity and accountability. Sponsored search is a program under which advertisers bid on search terms relevant to their businesses and those with the highest bids get the best placement in our sponsored search results.

In November of 2003, Yahoo! took the unprecedented action of removing all sponsored search pharmacy listings for prescription drugs as an interim step to develop a more comprehensive program that would maintain our commitment to providing consumers, advertisers and partners with the best online experience possible. Our message was clear: until we could create a safer environment for such online advertising, there would be no sponsored search listings for prescription drugs on Yahoo!

Beginning in February of 2004, we launched our more comprehensive program, which was the first of its kind. Our goal is to enable a more trusted marketplace for legitimate online pharmacies to competitively offer consumers access to prescription drugs. Yahoo!'s Online Pharmacy Qualification Program employs a five-facet approach to enhance consumer trust in participating online pharmacies.

First, we determine whether an advertiser is participating in the sale of prescription drugs. If it is, Yahoo! requires the advertiser to participate in the Qualification program in order to participate in sponsored search.

Second, the advertiser is directed to SquareTrade, a leading online trust infrastructure company, which verifies whether the appropriate governmental body where the company is located has licensed both the pharmacy itself and its associated pharmacist. Unless SquareTrade determines that the advertiser and its associated pharmacist are currently licensed, Yahoo! will not allow the pharmacy to advertise.

Third, the advertiser is required to certify that it engages in a set of industry best practices that have been approved by the National Community

Pharmacists Association (NCPA), including certification that the pharmacy is acting lawfully in the jurisdiction where it is located as well as each jurisdiction in which it sells, that it is operating consistent with the terms of its license, and that it will not provide prescription drugs without verifying the existence of a valid prescription from the person's personal health care practitioner and such prescription was not obtained solely by means of an online or telephone consultation.

Fourth, SquareTrade, in a program administered in conjunction with the NCPA, regularly monitors the licensure status of participating pharmacies and additionally responds to any complaints it receives regarding these pharmacies. Any negative action taken by the licensing entity or any complaints that are substantiated by SquareTrade are reported to Yahoo! and the advertiser will be removed as appropriate. Complaints will also be forwarded by SquareTrade to the appropriate government licensing authority.

Finally, Yahoo! prohibits online pharmacies from advertising the most dangerous and abused prescription drugs--- Schedule II controlled substances—in the Yahoo! marketplace. To do this, we prohibit pharmacies

from bidding on keyword terms associated with Schedule II drugs. We only allow rehabilitation clinics or other similar sites to advertise in connection with such search terms. We are currently enabling the DEA to run public service announcements free of charge in connection with search terms related to Schedule II controlled substances.

Yahoo! believes that this five-pronged Online Pharmacy Qualification Program complements our mission of bringing consistency to the interests of consumers, advertisers, and Internet destination sites. Other Yahoo! programs such as banner ads and Yahoo! store are in alignment and at the very least, Yahoo! will not accept advertising dollars unless an online pharmacy is participating in Yahoo!'s Online Pharmacy Qualification Program.

Prior to finalizing the terms of our program, we briefed officials at the Food and Drug Administration on its terms. They warmly received our program and were very encouraged by the fact that we were taking a leadership role in this area.

Based on our experience with our Program, we believe it has made a positive change in the quality of advertisers in the Sponsored Search area. We knew going in that only a small percentage of online advertisers of prescription drugs would go through the process we have imposed. We estimate that in October 2003, prior to implementation of the program, we had several thousand advertisers of prescription drugs on sponsored search. Of these, only approximately 5% are participating in the program and are therefore eligible to advertise through sponsored search. Each one of these advertisers is a licensed pharmacy. Approximately 10% of the approved pharmacies have been disqualified as part of the ongoing review process. Of those, nearly one in three were later reinstated.

Mr. Chairman, and Members of the Subcommittee, we at Yahoo! are proud of the steps that we have taken to create a safer environment for the online advertising of prescription drugs. We are constantly looking for ways to improve our service to Internet users, and this area is no exception. This program is only 18 months old and we are interested in your feedback on how we may improve the program. We always reserve the right to get better.

We recognize, however, that even the most robust program will not preclude consumers from finding online sites that illegally sell prescription drugs.

The program I have just described applies to sponsored search, the program in which advertisers bid on search terms and those with the highest bids, get the best placement in our sponsored search results.

As a search engine, however, Yahoo! acts as a card catalogue of what is on the Internet. Yahoo! now has approximately 20 billion different objects in its search index, including internet web pages, images, and audio files. In web search, we facilitate user access to the vast array of information that is available across the Internet. Web search produces results that reflect the most relevant results in response to a request typed in by a user.

A single search term can produce a broad spectrum of results. Typing in the name of a prescription drug, even a Schedule II drug, can produce results that vary from where to buy such a drug, to information about the harmful effects of such a drug, to antidotes to the drug, to treatment centers for abuse of the drug. It may also provide more choices for consumers that may enable them to purchase prescription drugs in a legal manner at lower cost.

Yahoo! has taken additional steps to curb illegal sales of prescription drugs online. We have participated in the joint industry-government dialogue on this issue. We have also had one-on-one meetings with FDA and DEA. To support law enforcement efforts, we held a training event with the DEA at our Sunnyvale campus in October 2005. At this training event, DEA shared information regarding law enforcement concerns with online pharmaceutical sales and Yahoo! provided training to the DEA on what information is available from online providers to assist in law enforcement investigations. Yahoo! frequently cooperates with law enforcement agencies that are conducting investigations that involve the Internet.

Finally, Yahoo! has provided funding to allow the DEA to place public service announcements regarding the dangers of online drug sales in Sponsored Search. For example, recently a search for “vicodin” on Yahoo! brought up a sponsored search result for DEA stating: “ordering prescription drugs online may be illegal.” Yahoo! has also included links to FDA safety materials regarding online drug sales in Yahoo! Health.

Members of the Subcommittee, what you see before you today are two Internet companies who are fierce competitors. We have taken the initiative



to create a safer environment for the online advertising of prescription drugs.

We also agree on the need to protect the value of web search. That said, we are also committed to supporting the work of the government, law enforcement community, and state licensing authorities in their efforts to enforce the important laws that regulate the distribution of these substances. We look forward to continuing to improve our programs to better address this important issue.

Thank you so much for this opportunity to appear before you.